



1 by specific factual findings outweigh the general history of access and the public policies  
2 favoring disclosure.” *Id.* (quoting *Kamakana*, 447 F.3d at 1178) (alteration and internal  
3 citations omitted).

4 The second standard applies to discovery materials. “‘Private materials unearthed  
5 during discovery’ are not part of the judicial record.” *Id.* (quoting *Kamakana*, 447 F.3d at  
6 1180) (alteration omitted). The “good cause” standard set forth in Rule 26(c) of the Federal  
7 Rules of Civil Procedure applies to orders rendering this category of documents confidential.  
8 *See id.*; *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1103 (9th Cir. 1999)  
9 (“It is well-established that the fruits of pretrial discovery are, in the absence of a court order  
10 to the contrary, presumptively public. Rule 26(c) authorizes a district court to override this  
11 presumption where ‘good cause’ is shown.”) (citations omitted).

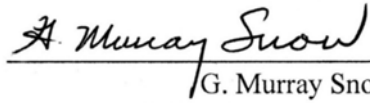
12 The good cause standard also applies to the sealed filing of documents attached to  
13 non-dispositive motions because those documents are often “‘unrelated, or only tangentially  
14 related, to the underlying cause of action.’” *Phillips v. G.M. Corp.*, 307 F.3d 1206, 1213 (9th  
15 Cir. 2002); *see Pintos*, 565 F.3d at 677-78. Documents attached to dispositive motions such  
16 as motions for summary judgment, however, are governed by the compelling reasons  
17 standard. *See San Jose Mercury News*, 187 F.3d at 1102; *Foltz*, 331 F.3d at 1136. The  
18 parties do not establish good cause or compelling reasons merely by stipulating that  
19 documents may be filed under seal.

20 The parties may submit a revised proposed order that takes into account these  
21 standards. The stipulation or motion seeking entry of the order should show good cause for  
22 a confidentiality order governing discovery materials. The proposed order should also reflect  
23 the fact that any party seeking to file documents under seal must show good cause for  
24 documents attached to non-dispositive motions or compelling reasons for documents attached  
25 to dispositive motions. Therefore,

26 ///

27 **IT IS HEREBY ORDERED** denying the Stipulation for Confidentiality Agreement  
28 (Doc. 29) without prejudice.

1 DATED this 24th day of August, 2011.

2 

3 \_\_\_\_\_  
4 G. Murray Snow  
5 United States District Judge  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28